



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
FREEDOM OF INFORMATION ACT BRANCH
Washington, D.C. 20570

Via email

August 8, 2023

Re: FOIA Request NLRB-2023-001719

Dear Rekha Vira (Lexis Nexis):

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on July 14, 2023, in which you seek records in Bellaire General Hospital, LP, d/b/a Bellaire Medical Center, Case Nos. 16-CA-22556, 16-CA-22557, and 16-CA-22558. You assumed financial responsibility for the processing of your request in the amount of \$37.00.

We acknowledged your request on July 14, 2023. In email exchanges with a member of my staff on July 31, 2023, you clarified your request as seeking the follow up Administrative Law Judge's opinion that would have resulted from the September 30, 2006 Board order remanding the above-specified cases back to the ALJ. In the event that the order cannot be located, you agreed to accept the final closing letter.

A search was conducted in the Agency's electronic casehandling system, NxGen, which generally maintains NLRB case records from 2011 to present. This search did not locate any responsive orders.

As part of our due diligence in searching for older records that pre-date our current electronic casehandling system, we directed a search inquiry to the Division of Judges office to conduct a manual search for potentially responsive paper records that may still be maintained. Staff in the Division of Judges were not able to locate any responsive records.

Additional searches were conducted within our electronic record repositories, including various pre-NxGen records, utilizing the Agency's custom document search tool Integrated Search, or "iSearch," in addition to searching the Agency's website, to try to locate any responsive records. These searches were unable to locate any responsive records.

A search was then conducted of spreadsheets contained in prior FOIA requests for information downloaded from the Agency's legacy database, Case Activity Tracking System (CATS), which maintained certain case data for the Agency's

Regional Offices between FY2000 through 2010. That search did not yield any records responsive to your request.

Please be advised that pursuant to the Agency's record retention and disposition policy, paper records are retained for a six-year period, which commences at the close of the calendar year during which the case is closed. The records are then destroyed, unless they are selected for permanent retention based on their legal significance. Given the age of the requested case, and considering the case originally closed in 2007, a member of the FOIA staff searched the list of permanently retained cases maintained by the Agency's Case Records Unit for cases that closed between 1982 and 2010, and it was confirmed that the requested case was not selected for permanent retention.

Accordingly, the only record responsive to your modified request which is still maintained by the Agency is the case closing letter, a copy of which is attached.

After a review, I have determined that certain information in the attached record is exempt from disclosure under Exemptions 6 and 7(C) of the FOIA (5 U.S.C. § 552(b)(6) and (b)(7)(C)). Specifically, redactions have been made to protect the privacy interests of individuals named in the record. These redactions were made pursuant to FOIA Exemption 6, which protects personally identifiable information the release of which would constitute a clearly unwarranted invasion of personal privacy, and FOIA Exemption 7(C), which protects records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(6) and (b)(7)(C).

For the purpose of assessing fees, we have placed you in Category A, commercial use requester. This category refers to requests "from or on behalf of a person who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made, which can include furthering those interests through litigation." NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(1)(v). Consistent with this fee category, you "will be assessed charges to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought." 29 C.F.R. § 102.117(d)(2)(ii)(A). Charges are \$9.25 per quarter-hour of professional time. 29 C.F.R. § 102.117(d)(2)(i).

Thirty minutes of professional time was expended in searching for and reviewing for release the requested material. Accordingly, please remit \$18.50.

Payment Instructions: We are no longer accepting checks or money orders as payment. To submit payment for your FOIA request, please use www.pay.gov. From the www.pay.gov home page, scroll down to the bottom left corner to select "Pay a FOIA Request." Click "See all options" and go to "Filter By Agency" to

check the box for the National Labor Relations Board. Continue following instructions on the website. Please remember to include the Invoice Number, which is the NLRB FOIA Case No., and the amount you intend to pay. Further, please be advised that all FOIA payments must be paid in full before any future FOIA requests are processed.

You may contact Jodilyn Breirather, the FOIA Specialist who processed your request, at (414) 930-7208 or by email at Jodilyn.Breirather@nrlb.gov, as well as the Agency's FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the FOIA Specialist, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times. The contact information for the FOIA Public Liaison is:

Kristine M. Minami, FOIA Public Liaison
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: FOIAPublicLiaison@nrlb.gov
Telephone: (202) 273-0902
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: (202) 741-5770
Toll free: (877) 684-6448
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at: <https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

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Nancy E. Kessler Platt, Chief FOIA Officer
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: DLCFOIAAppeal@nrlrb.gov

Any appeal must be postmarked or electronically submitted within 90 calendar days of the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the FOIA Specialist, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

/s/ *Synta E. Keeling*

Synta E. Keeling
FOIA Officer

Attachment: (two pages)